

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1, 3, 4, 6-14, 36-39, 42, and 43 are now pending in this application. Claims 44-52 are herein canceled without prejudice. Claims 37-39 are herein amended. No new matter is added.

In the outstanding Office Action, Claims 36-39 were rejected under 35 U.S.C. § 102(e) as anticipated by Kammerer, 2002/0077526. Claim 42 was rejected under 35 U.S.C. § 103(a) as obvious over Gellman, 2002/0058959, in view of Landgrebe, 2002/0091298. Claims 1, 3, 4, 6-14, and 43 were allowed. Applicant thanks the Office for its indication of allowable subject matter.

Claim 36 was rejected under 35 U.S.C. § 102(e) as anticipated by Kammerer. Applicants respectfully traverse this rejection.

Claim 36 is directed to a surgical sling procedure for treating incontinence. The method includes providing a surgical kit with an implantable material suitable for a sling procedure, at least one of a first type of needle that is sized and shaped for inserting a sling, at least one of a second type of needle that is sized and shaped for inserting a sling, and a dilator for associating said implantable material suitable for a sling procedure with at least one of said first or second type of needle. The first type of needle is different than the second type of needle. The method further includes steps of selecting the first or the second type of needle, and implanting the implantable material using the selected needle.

The present application claims priority to U.S. Provisional Application Serial No. 60/295,068, filed June 1, 2001. The invention of claim 36 is disclosed and enabled in this provisional application. At paragraphs 0157 through 0166 of this provisional application, a method of treating incontinence using an implantable sling, two needles for inserting a sling,

and a dilator for associating the implantable material a needle is disclosed. Further, the application discloses the use of different kinds of needles at paragraph 0142. This provisional application was filed June 1, 2001. The Kammerer publication, on the other hand, was not filed until June 4, 2001. Accordingly, the Kammerer publication is not prior art to claim 36. Applicants respectfully request withdrawal of the rejection of claim 36.

Claims 37-39 were rejected under 35 U.S.C. § 102(e) as anticipated by Kammerer. In response thereto, Applicants amend claims 37 and 38 to require that the adapters in the claimed kits comprise a snap mechanism configured to securely attach the adapter and the guide needle. Kammerer does not disclose or suggest such a snap mechanism. Accordingly, Applicants respectfully request withdrawal of the rejections of claim 37 and 38, along with claim 39 depending from claim 38.

Claim 42 was rejected under 35 U.S.C. § 103(a) as obvious over Gellman, 2002/0058959, in view of Landgrebe, 2002/0091298. Applicants respectfully traverse this rejection, as the Office has failed to state a prima facie case of obviousness.

Claim 42 is directed to a surgical kit for treating incontinence. The kit comprises an implantable material suitable for a sling procedure, a needle, a dilator, and at least one of two different types of handles. The needle is sized and shaped for inserting a sling and has surfaces for engaging a handle. The dilator is for associating the implantable sling material with the needle.

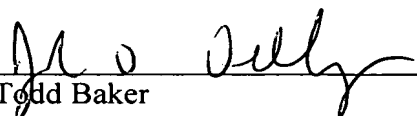
Landgrebe teaches a detachable handle/needle combination. Landgrebe does not in any way teach or suggest the concept of a plurality of handles for a needle. While it discloses a specific handle having features purported to enhance the utility to the surgeon, Landgrebe does not teach or suggest selecting from a plurality of available handles the handle that best fits the surgeon's hand.

Gellman discloses a surgical device having a needle, to which is attached a tether. The tether is attached to a dilator combined with a sling. The sling is attached to another tether. Gellman does not disclose at least one of two different types of handles. In fact, Gellman doesn't even disclose a single handle, nor any apparent way to attach a handle to the disclosed needle. Clearly, the needle disclosed in Gellman does not have surfaces for engaging a handle. Further, completely lacking a handle and any apparent mechanism for use of a handle, it seems clear that one would not be motivated to combine the specialized handle of Landgrebe with Gellman to reach the presently claimed kit having a needle with surfaces for engaging a handle and at least one of two different types of handles. Failing to disclose all of the elements of the claimed kit, and failing to provide any suggestion or motivation to combine the two references, Applicants respectfully suggest that the combination of Landgrebe with Gellman cannot render the invention of claim 42 obvious. Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 42.

In light of the above discussion and the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



W. Todd Baker
Attorney of Record
Registration No. 45,265

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

John D. Dellinger
Registration No. 50,436